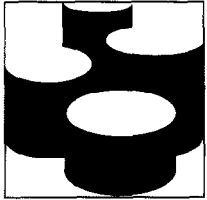


April 4, 2003

Can Manufacturers



Institute

Via: E-Mail and US Mail

Dockets Management Branch (HFA-305)
Attention Docket Numbers 02N-0278
U.S. Food and Drug Administration
5630 Fishers Lane, Room 1061
Rockville, MD 20852

1625 Massachusetts
Avenue, N.W.

Washington, D.C.
20036

T. 202-232-4677
F. 202-232-5756

**RE: Prior Notice of Imported Food under the Public Health Security and
Bioterrorism Preparedness and Response Act of 2002; Proposed Rule
68 *Federal Register* 5428 (February 3, 2003); Docket No. 02N-0278**

Dear Sir or Madam:

The Can Manufacturers Institute (CMI) appreciates this opportunity to submit comments concerning the Prior Notice of Imported Food Under the Public Health Security and Bioterrorism Preparedness and Response Act of 2002; proposed rule; 68 *Federal Register* 5428 (February 3, 2003); Docket No. 02N-0278. CMI is the national trade association of the metal can manufacturing industry and its suppliers in the United States. CMI members account for over 90 percent of annual domestic production of 136 billion cans; together they employ some 26,000 people with plants in 36 states.

CMI supports FDA efforts to protect the US food supply from terrorism. However, we are concerned that the scope of the Rule's notice requirements for importers is too broad and would unnecessarily burden industries not intended under the Bioterrorism Act.

The Rule's definition of a "food" relies on the Federal Food, Drug, and Cosmetic Act's definition as (1) articles used for food or drink for man or other animals, (2) chewing gum, and (3) articles used for components of any such article. In addition, the Rule states that the definition of food includes "food and feed ingredients and additives, including substances that migrate into food from food packaging and other articles that contact food" and "substances that migrate into food from food packaging include immediate food packaging or components of immediate food packaging that are intended for food use." 68 *Fed. Reg.* at 5430.

Our members occasionally import can ends (lids) or bodies from their plants, franchises or licensees—usually from Canada or Mexico. These plants utilize the same manufacturing processes and procedures employed by the US metal can manufacturing industry that make the risk from tampering or terrorist acts practically nil. Simply put, the can industry manufactures the can body and ends (lids)

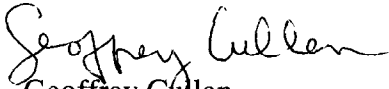
02N-0278

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separately, so there is never a sealed product at can plants. Canmakers then separately ship the body and ends upstream and offsite to food and beverage facilities as needed. Can makers do not pack food into cans at their plants. Therefore, can manufacturers should be exempted from the registration requirements contained in the Proposal.

CMI appreciates the opportunity to submit these comments on this important matter. Please contact me at 202-232-4677 with any questions.

Sincerely,

A handwritten signature in cursive script, reading "Geoffrey Cullen".

Geoffrey Cullen
Director of Government Relations
CMI